

The Political Parties as Organisations of Representation of the Political Rights of Individuals in Albania

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Abstract

According to the Constitution or laws, individuals today have extensive political rights closely associated with the right to vote. Here is meant the active and passive right of voting. Membership in a party is not only because of the desire, but also for the fact that the party gives individuals the possibility of career progress, further realization of their political rights. The purpose of this paper is to present the development of political parties and individual rights, not only in Albania, but also combined with the European experience. In this paper we will focus on how political parties have evolved as well as the political rights of individuals after the independence in 1912.

The development of political parties in Albania has passed in two stages in the communist system where only one party was known and in the democratic system where was recognized political pluralism. Highlighting the role of political parties, as an important promoter of the functioning of state and of the coverage of the political rights of individuals, makes this study important.

Keywords: political system; constitutional; political party; political rights.

Introduction

If we look back at history, individuals have not always had political rights. In the era of slavery, political rights had only slave owners, in feudalism only feudal and nobles. Along with the historical development, the political rights of individuals developed too. Prior to World War II individuals had gained political rights, but with restrictions on women. Only after World War II, after the feminist movement for political rights in almost all of Europe was recognized the general election right as one of the most important political rights.

The individual obtains the political rights under national and international laws, rights which develop in various political organizations in which he or she participates such as political parties. Their organization and function is defined in the Constitution and the organic law. In Article 9 of the Constitution of the Republic of Albania in 2008 is stated that: "Political parties are created freely. Their organization shall conform to democratic principles.....". While in Article 1 of Law no. 8580, dated on 17.02.2000 "On political parties" it is stipulated that: "Political parties are voluntary unions of citizens on the basis of the ideas, views or beliefs of the common political interests,

which aim to influence the life of the country through participation in people choice and representation in elected bodies of power”.

But political rights of individuals defined in Article 45 and following of the Constitution: “Every citizen who has reached the age of eighteen, even on election day, has the right to elect and be elected” and Article 46 stipulates: “Anyone has the right to be organized collectively for any lawful purpose.”

Whereas in Article 9 of the Constitution is given the political meaning, in Article 46 is defined the electoral rights of individuals in the context of political rights and the relationship of these two concepts is made to the law on political parties. Two of the goals of political parties under the law for political parties are participating in elections and people’s representation in elected bodies of power.

One of these bodies is precisely the National Assembly where the parties send their representatives after the general election.

We cannot just focus on Albania that without looking even at the foreign experience in relation to the definition of the political parties. In Article 49 of the Italian Constitution it is stipulates that: “All citizens have the right to freely associate in political parties in order to contribute with democratic methods in national politics.” This provision is closely related to Article 18 of the Italian Constitution, the right of association: “Citizens have the right to organize freely, without authorization for purposes that are not prohibited by criminal law.” The Italian Constitution stipulates that any political party which would be established and function will only happen on a democratic basis. Moreover its impact on the state or participation through representatives in state will be built on a democratic basis. Beyond that this provision of the Constitution gives no other details on the elements of political parties, organization and functioning of political parties. In fact, it is the Italian doctrine that explains and interprets the broader concept of political parties.

The Italian author T. Martines defines the key elements of the political parties which are on the one hand plurality of persons, like the organization and on the other hand the goal or ideology. The main element “ideology” requires the existence of a stable organization to realize the main goal of the party¹.

In Germany and France, the political parties are defined in the Constitution, namely Article 21 of the German Basic Law and Article 4 of the Constitution of France. In these constitutions as well as in Italy is observed the fact of creation and functioning of political parties on a democratic basis. While in England, which does not have a written constitution, they are defined in the respective political parties law.

¹ Martines, T., *Diritto costituzionale*, Milano 2005, pg. 627

The origin of political parties

If we have a look back at history, political parties have not been as developed as they are today. They have existed as political groupings in ancient Rome or Greece. In classical liberal period they have been treated as parliamentary groupings: "The Right" or "The Left", deprived of a real strength in the country. Later this era was followed by the extension of the franchise and the transformation of political parties from organizing elite groups into the real measures party. The latter are characteristic of modern states.

All this led to the necessity of constitutional recognition of political parties as an important social formation which happened for the first time in Italy with the Constitution of the Second World War². Later sanctioning in the constitutions spread in all countries of Europe.

Even works on political parties at the beginning of the XX century have been scarce. Thus, the famous author Giovanni Sartori in his work "The parties and the party system"³ stated that there was a huge shortage of work for political parties despite initial work of Duverger in 1951. Political parties are an intriguing phenomenon. They intrigue interests of people in the organization of the political parties, in increasing political participation in decision-making in an attempt to gain power, in promoting the national interest in protecting their rights. Research on parties includes abundant writings by foreign authors, the reason of which lies mainly in the desire of a researcher to analyze the study of political parties from a distinctive perspective or simply better than other researchers.

Despite the fact of the few works about parties as mentioned by Sartori, different authors have given different definitions about parties. Lord James Bryce defines political parties as "organized bodies with voluntary membership, their shared energy in pursuit of political power."

Max Weber defines a political party as "a voluntary organization for propaganda and agitation, seeking to acquire power in order to achieve objectives, goals or personal advantages or both". Edmund Burke thought the party as "a group of men who had agreed on a principle that national interests were the priority." Leon D. Epstein (1967: 127) argues that the political parties understand "each group, however loosely organized, in search of choices that government posts under a certain label"⁴.

This variety of definitions shows that it seems difficult to present a universal definition for the parties. Each of these authors is based on a certain element, but mainly political

² Omari L., Anastasi A., *Constitutional Law*, Tirana 2008, pg. 175.

³ Sartori G., *Parties and party systems*, Cambridge University Press, 29 October 1976, pg. 27.

⁴ Byron E. Sh., Epstein D. L., *PS: Political Science and Politics*, no. 4, vol. 39, pg. 937.

parties have some common elements, which is the organization, purpose, ideology, etc. Individuals, who are members of a political party, intend to work for the party, to support its ideology and wanting themselves to be representative of this ideology in politics and representative bodies.

During the years 1912-1939

Until 1912, Albania was an occupied territory and under Ottoman administration. In the years 1908-1912 two last electoral processes of the Ottoman Empire were organized. At that time, Albania was divided into four electoral districts, Albania of today in two areas, one area based in Skopje and one in Kosovo⁵

Officially there were some political groups and associations, mainly based on regional and religious divisions. Individuals had incomplete political rights, most of the population did not have the right to vote and there was no list of voters. Elections were held in two or three rounds and the winning list of candidates was approved at high levels of the Empire.

In 1912, Albania had started a nationwide movement for secession from the influence of the Ottoman Empire. The National Assembly was gathered in Vlore Albania and declared the independence on 28th November 1912. The Assembly addressed to the chancelleries of great powers to recognize the Albanian state as an independent state⁶. This marked a new era for Albania where the political and territorial administration would be required to be made by the Albanian authorities and citizens.

However the influence of the Ottoman Empire could not disappear so easily and its remains were seen to the Organic Statute of 10th April 1914. Under this statute, Albania was a monarchy with a prince to come from the outside and even this statute was granted by the Great Powers.

From 1912 to 1920 we cannot speak about the existence of political parties while the political rights were still limited. In this year when the Statute of Lushnje was adopted (1920), on 12.05.1920 there was adopted even an electoral law which was called "For the election of representatives." On the basis of this law were held the first elections for the National Council in 1921. It envisioned a two-tiered election system where women were not entitled to vote.

This law had significant shortcomings and left the issue open for further improvements. The law did not foresee any way for the regulation and functioning of political parties.

On 30th September 1923 was adopted a new law on elections in the Constituent Assembly. This law decided direct voting as well as electoral age. While on 23rd February

⁵ Bufi Y., *The Temple of Democracy*, Tirana 2010, pg. 137.

⁶ Anastasi A., *The political institutions and the Constitutional Law in Albania (1912-1939)*, Tirana 1998, pg. 17.

1925 the Law "On election of the Chamber of Deputies" was adopted. Even this law as former ones sanctioned universal male voting by not stipulating the right of women to vote. Under this law, electoral districts were divided and placed under prefectures, defined the modalities of election, voting procedures, conditions of being a deputy⁷ etc. Even in this law there was not

given any particular significance to political parties. This law remained in force until 1939. Regardless of the election laws that did not foresee provisions concerning political parties, there were some political movements for the creation of political parties in Albania and their sisters abroad. For the period of the Congress of Lushnje of the year 1920 the author Bernd Fischer highlights that political parties and the Albanian parliament were born in an unknown terrain, in difficult circumstances in terms of historical and a lack of democratic experience⁸. Despite such difficulties it was getting difficult to create a suitable ground for the emergence of genuine political parties.

Despite such difficulties a serious job was being done which created a suitable ground for the emergence of genuine political parties. So after the Congress of Lushnje a law was approved on political parties.

Immediately after the adoption of this law on October 10, 1920 a group of MPs came up with a political program under the name of "National People's Party"⁹ with key leaders Fan Noli and Ahmet Zogu, but later the party was under the leadership of King Zog.

At the moment when the Zog's efforts to strengthen his personal power became public many supporters in the party as well as the party opposed him. Some of these members, who disagreed with the National People's Party program and thoughts of Zog, announced the creation of a new political party which was called Progressive (Democratic) Albanian Party.

However, except for the Popular Party and Progressive Party it was created even a different political group called "Holy Union" or "Sacred Union". Much of the three groups had similar programs¹⁰.

Therefore, the political parties that were pointed out in this period were the People's Party and the Progressive Party. The truth is that the People's Party and the Progressive Party were not built and operated as a party, neither in structure nor in their activities. They did not also managed to create local party structures, build structures and

⁷ Anastasi A., *The political institutions and the Constitutional Law in Albania (1912-1939)*, Tirana 1998, pg. 144-145.

⁸ Fischer J. B., *Albania at war, 1939-1945*, Purdue Univeristy Press, July 1999, pg. 49.

⁹ Dervishi K., *The history of the Albanian State 1912-2005*, Tirana 2006, pg. 115.

¹⁰ Anastasi A., *The political institutions and the Constitutional Law in Albania (1912-1939)*, Tirana 1998, pg. 47

implement a parliamentary election process within itself. Author Bernd Fischer says, «cannot be called real parties since both present a vague program and cannot be distinguished from each other based on their constituents»¹¹. This situation would continue until December 1923 when elections were confirmed by two new political forces, the People's Party (Governmental) of Zog's and the Democratic Party of Noli. In 1928 when Ahmet Zog came to power he eliminated all opposing forces by obliging them to emigrate abroad. By law, Zog did not allow the creation of other political parties in order to have all the power himself.

In terms of political organizations abroad we should mention that the USA was created as a political organization as well as different political societies in Turkey, Italy, and Belgium etc. These organizations abroad kept alive the Albanian tradition and culture. The most organized group was the organization "Hearth" that operated in the U.S.A. It was established in 1912 and its chairman was initially Fan Noli and Faik Konica later.

Until 1939, there were no new developments about political parties or political rights. Their existence and operation was incomplete as Faik Konica described it: *"These are headless, bodiless and especially breathless parties"*¹².

In the years 1939-1944

Before 1939, about in 30s when there was a risk of fascist invasion were spread the communist ideas¹³. In the years 1935-1936 the Albanian communists abroad tried to join political groups and migrant Albanian workers to establish the fascist National Front. This was a positive initiative in terms of eve of the World War II. According to the French experience of this period, the Popular Front would unite all Albanian nationalists to protect the country's independence. All political groups of Albanian immigrants adhered to the Front, with the exception of Mustafa Kruja. His program included: the establishment of a democratic republican regime, carrying out agrarian reform, repeal of all economic concessions etc. Despite efforts, the Democratic Front did not become an efficient organization.

On 7th April 1939, Albania was occupied by the fascist Italy. The Assembly headed by a former official from the former regime, Xhafer Ypi, took a decision prepared by the Italian Ministry of Foreign Affairs, which announced the fall of the monarchy of King Zog and its abrogation of the Constitution. The main aim of the Italian occupation was the annexation of Albania so the Italian rulers tried to Italianize everything in Albania¹⁴. In this period we can not talk about the existence of the electoral system and the political parties since the conqueror decided its political organization.

¹¹ Fischer J. B., *The King Zog and attempts for stability in Albania*, Tirana 1996.

¹² Konica F., *The Comedy of Parties*, Dielli, December 1923.

¹³ Here, pg. 92

¹⁴ Kallis A. A., *Fascist Ideology: Expansionism in Italy and Germany 1922-1945*, London 2000, pg. 53.

So on June 2, 1939 the Fascist Party was created in Albania modeled after its counterpart in Italy. The Albanian Fascist Party was a branch of the Fascist Party in Italy¹⁵. The program this party unveiled was for a larger Albania including Kosovo, but in reality the party failed to extend its influence throughout the country.

Only on September 16th, 1942 Peza Conference was held which elected a National General Temporary Council of 7 members, a body which had political, but practically with a limited activity¹⁶. This was the only time that could be talked about political activity independent of the conqueror.

In the years 1944-1990

After the end of World War II, both Albania and Europe underwent the process of development and the country's post-war recovery. While most of Central and Western Europe were oriented towards a development of democratic and pluralist party, Albania was oriented towards communist eastern countries experience and specifically towards the expertise of the former Soviet Union. The ideas of Marx, Engels and Lenin made that in the former Soviet Union to be placed the communist system based on class division and the dictatorship of the proletariat. These principles were adopted well by the Albanian government after the war.

From 24th to 28th May 1944 the I Congress was held, National Liberator Anti-fascist one in the town of Permet. The congress elected the Anti-Fascist National Liberation council as the main legislative body as well as the Anti-Fascist National Liberation Committee with all the attributes of an interim government. Since the first day of creation the Anti-fascist National Liberation Council worked to establish a genuine communist dictatorship in Albania¹⁷.

Elections for the Constituent Assembly were held on 2nd December 1945 under the procedure set forth by the electoral law. The electoral law sanctioned the majority system where the candidate with a relative majority of votes won. In this elections took part around 90% of voters and over 93% of them voted for candidates of the Democratic Front.

The Democratic Front was the only political body led by the Communist Party. This body (Democratic Front) was democratic only in name because its actions hindered the way of creating other political groups, it sanctioned the communist system which inevitably lead to a completely totalitarian and repressive regime¹⁸.

¹⁵ Wikipedia, U.S. Library of Congress, Country Study, Albania.

¹⁶ Omari L., *Parlamentary system*, publications of "Elena Gjika", fourth edition, pg. 197.

¹⁷ Wikipedia, U.S. Library of Congress, Country Study, Albania.

¹⁸ Omari L., *Parlamentary system*, publications of "Elena Gjika", fourth edition pg. 202.

On January 11th, 1946, the Constituent Assembly which was elected in December 1945 abolished the monarchy and proclaimed the People's Republic of Albania. For the first and last time the Constituent Assembly had a genuine opposition, but was quickly knocked by communist methods. On March 14th, 1946 the Assembly adopted the first Constitution in Albania¹⁹. This constitution was the prelude to the start of operation of communism in Albania.

The new government was created in spring with Prime Minister Enver Hoxha and the Constituent Assembly became the National Assembly.

The new constitution was adopted on 28th December 1976 by the National Assembly and declared Albania People's Socialist Republic based on the dictatorship of the proletariat. The Constitution was stated that : *" The National Assembly determines in accordance with the general line even the objectives of the Labour Party of Albania, the main directions of internal and foreign politics of the state."* So, after the 1976 the Communist Party whose name changed in the first congress into the Labour Party of Albania was strengthened even more. The goals of the party and later of its general secretary, Enver Hoxha were drowning any attempt to create other parties in Albania. This was written in the Constitution and in the article 3 of it was determined that: *"The Labour Party of Albania is the only political force leading the State and society."*

The meetings of the National Assembly had no political debate. By eliminating the opposition group led by Riza Dani disappeared once and for all the possibility of any opposition not only against, but simply opposing the National Assembly²⁰.

Through one-party regime, the former dictator Enver Hoxha established his absolute power in Albania violating any rights and fundamental freedoms, disposing and interning all of those labeled as agents, traitors, but who were only people against the dictatorship. Everything was focused on the state party and around the dictator Enver Hoxha. Even the electoral laws that were adopted in this period were under the function of the communist principles.

After 1990 until the present day

The student movement in December in 1990 opened a new page in the history of Albania. Pluralism became a reality in Albania, but this time in more favourable conditions than those when the independent Albanian state was recovered after the Congress of Lushnje.

In November of the year 1990 was made a change in the last electoral law mainly to allow the submission of candidates for deputies even from the *measures`organizations*

¹⁹ Anastasi A., *Constitutional Law*, series of lectures, Tirana 2004, pg. 51.

²⁰ Omari L, *Parlamentary system*, publications of "Elena Gjika", fourth edition pg. 205.

(youth organizations, women, writers, etc.), changes aimed at creating a pluralistic image. These moves were aimed at individuals feeling secure for their political rights and freedoms and having equal opportunities for representation. Certainly in this sense an impact had even the numerous electoral systems in Albania. Only after the legalization of political pluralism in December of 1990 (Decree 7442, dated on December 17, 1990 "On the creation of political organizations and associations"), the electoral law underwent some changes in order to allow the competition of new opposition political formations in the March elections of the year 1991.

The first multiparty elections of 31st March 1991 were held under the majority system, inherited by the communist regime, which favored the Labour Party, which was holding the reins of power. In these elections, which were attended by around 98.92% of voters the Labour Party won again, but that was followed by a significant percentage of the Democratic Party. The first pluralistic Parliament was convened on 15th April 1991. The Democratic Party proposed in parliament the establishment of a set of laws and not to hurry with the creation of a constitution. This proposal was accepted in Parliament and on April 29th was approved the Law no. 7491, dated on 29.04.1991 "*On the main constitutional provisions.*" This law played the role of a constitution in Albania until 28th November 1998.

The first pluralistic Parliament on February 4th 1992 adopted the Law "*On elections of the National Assembly of the Republic of Albania*" (Law No. 7556). The adoption of this law, which completely changed the electoral system, was preceded by a change in the Law on Major Constitutional provisions, Article 17, first paragraph, which sanctioned the composition of the National Assembly of 250 members²¹. Under this law, the National Assembly shall be composed of not less than 140 members, of which 100 would be directly elected by the majority system based on a single-member list for each party. And 40 other members would be elected by the proportional depending on the percentage of votes each party would receive. In each area, the winner candidate was the one who received an absolute majority of votes in the first round.

On 22nd March 1992 preterm elections were held in which the winner was the Democratic Party and after it were ranked the Socialist Party, the Social Democratic Party, the Union of Human Rights and the Republican Party.

In February 1996 an amendment was made to the electoral law of 1992. In this change was defined a limit to be represented in the parliament which for each party would be 4%, whereas for the coalitions with two parties 8% and for coalitions with more than two parties the percentage of limit increased for each party with 4%. On the basis of the electoral law of 1992 as amended in February 1996, new elections were held on 26th May 1996.

²¹ Bufi Y., *The Temple of Democracy*, Tirana 2010, pg. 140.

The winner in these elections was the Democratic Party again. The parliament would be built in such a way, the Democratic Party 122 MPs, 10 MPs the Socialist Party, the Republican Party 3 MPs, the party of Union of Human Rights 3 members and National Front 2 members.

The Albanian parliament because of the current situation in Albania during 1996-1997 on May 16th, 1997 approved an amendment to the election law. According to the amendment the National Assembly would be consisted of 155 members, 115 elected through the majority system and 40 members elected through the proportional system.

To gain additional seats at national level the minimum threshold of votes received was reduced from 4% to 2%. The preterm elections were held on June 29th 1997. Beyond the uneasy situation in Albania due to the riots that occurred and the arming of the population, these elections were conducted smoothly. The foreign observers considered these elections as acceptable and appropriate²². The winning party in these elections was the Socialist Party and after it was ranked the Democratic Party. In parliament also participated the Legality Party, the Democratic Alliance Party, and the Union for Human Rights, the Social Democratic Party, the Republican Party, the National Front party, in total 13 political parties.

On 28th November 1998 was enacted the coming into force of the Constitution of the Republic of Albania which was approved in Parliament and by referendum. Under the Constitution, the electoral system would be majority corrected where 100 deputies would be elected by the majority system and 40 members by proportional. A political party to take part in the Assembly should have won 2.5% of the votes while the coalition parties should have reached to a limit of 4% of votes. However, the exact formula for the calculation of the seats in parliament became clear with the Electoral Code of 2000 that was implemented in the general elections of the year 2001. In that election the winning party was again the Socialist Party with 73 seats. The Democratic Party won 32 seats and the other parties further. This parliament had a total of 12 political parties.

The Electoral Code was changed again in 2003, and elections were held in a round in which the candidate who received more votes than others was the winner, but not necessarily an absolute majority. On July 3rd, 2005 the next elections were held where the winner was the Democratic Party. In the new Parliament the Democratic Party would have 56 members, 42 members of the Socialist Party, the Republican Party 11 MPs, the Social Democratic Party 7 MPs, and the Socialist Movement for Integration 5 MPs etc. The Assembly was composed in total of 13 political parties.

²² *Albanian Human Development Report 1998*, publication of PNUD (UNDP), Tirana, pg. 66.

After the objections raised by international organizations and their recommendations for new changes in the Electoral Code before the elections of 28th June 2009, after much debate in the Assembly, especially outside of it, it was made possible to adopt a new electoral code on November 18th of 2008²³. The approval was based on an agreement reached between the two major parties, Democratic and Socialist. Before changing the Electoral Code was amended the Constitution of the Republic of Albania on 21st April 2008. The electoral system changed from a mixed system into a regional proportional system since deputies would not be elected on the basis of a single list on a national scale, but on the basis of multi-name lists in various electoral areas. Even in the elections of 28th June 2009 the winning party was the Democratic Party. In these elections decreased the number of political parties that participated in the Assembly, from 13 which were after the elections of the year 2005 into six parties in the elections of the year 2009. These parties were the Democratic Party with 68 MPs, the Party for Justice and Integration and a member of the Republican Party (in coalition with the DP), LSI 4 MPs, 65 MPs Socialist Party and Union Party on Human Rights (the coalition with SP) 1 MP²⁴.

The elections that were expected to be held in June 23, 2013 were elections, which more than ever would have a greater monitoring of their performance. In meeting the conditions for EU integration and is even the implementation of fair elections in accordance with the law. After the elections on June 23rd, 2013 the winning coalition was the one of the Socialist Party which would be represented by 84 deputies in parliament and the coalition led by the Democratic Party would be represented by 56 deputies. In these elections were 68 registered political parties to contest and won the right to participate in the Assembly only seven political parties, PS, PD, LSI, PR, PDIU, PBDNJ, and DPSH. These elections were praised by the international bodies as normal and within the required standards.

Conclusion

The political parties in Albania as well as in Europe have not been developed since the first moments of their creation. Around 1900 and subsequently had occurred several events of a political nature, but had no organization of today's parties. Along with the historical development the political parties were developed in Albania too. Along with this development, evolution has undergone even the political rights.

The latter are closely related in terms of treatment with the election law, both as the active right to choose and the passive right to be chosen. A bond between political rights and political parties are even the election laws or the electoral systems that

²³ Omari L, Anastasi A., *Constitutional Law* (re-publication), Tirana 2010, pg. 282.

²⁴ www.cec.org.al

operate in Albania. Based on these, the political rights and freedoms of individuals are made concrete with seats in parliament, government or other representative bodies.

The political parties gained greater development in Europe after the World War II. At this pace progressed even the political rights and freedoms reminding that just after World War II women's political rights were made known. Something like this was expected even in Albania, but it did not happen as in Europe. Albania during the Communist regime made a step back regarding freedoms and political rights. In that period the electoral law defined the modalities of choice for the only party that existed the Labour Party of Albania.

Greater development the political parties got after 1990, when Albania was subjected to processes of democratization. Affirmation of human rights and political freedoms in law no. 7491, dated on 29.04.1991 "On the main constitutional provisions", the application of a new electoral system was the premise of the democratization of the party and its political system. At first it seems that the electoral system and the electoral law do not affect political parties, but in fact the electoral system affects and determines the number of political parties to be introduced in parliament.

The Constitution of the Republic of Albania of 1998 has given an even larger security to individuals about their rights and freedoms and specifically political rights. Albania's integration into the European Union obliges it to hold free and fair elections in accordance with the international standards. The Constitution has provided a set of political rights and freedoms which come in line with the European Convention on Human Rights.

However, political rights and freedoms are not as sensitive as it can be the right to life or property rights, but their provision in practice, would make individuals more free in participation in political parties. This in turn will affect the creation of parties with a democratic spirit directly affecting the further democratization of the governance system.

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